

Notice of Allowability

Application No.

10/661,234

Examiner

Arnel C. Lavarias

Applicant(s)

MOON ET AL.

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/8/05, 12/7/05, 12/6/05.
2. ☒ The allowed claim(s) is/are 20, 23-55, 58-93 (renumbered 1-70).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 9/13/05, 12/9/05.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>12/7/05, 12/6/05</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/6/05 has been entered.

Response to Amendment

2. The amendments to the specification of the disclosure in the submission dated 12/6/05 are acknowledged and accepted.
3. The amendments to Claims 20 and 55 in the submission dated 12/6/05 are acknowledged and accepted.
4. The cancellation of Claims 21-22, 56-57 in the submission dated 12/6/05 is acknowledged and accepted.

Response to Arguments

5. The Applicants' arguments, see in particular remarks filed 12/7/05, as well as remarks in the Examiner's Interview dated 12/8/05, with respect to the rejections of Claims 20 and 55, have been fully considered. After reviewing the Frankel,

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Ravkin et al., and Gary et al. references, the rejections of Claims 20-93 in Sections 13-16 of the Office Action dated 9/13/05 are respectfully withdrawn.

Allowable Subject Matter

6. Claims 20, 23-55, 58-93 are allowed.

Information Disclosure Statement

7. The references cited in the Information Disclosure Statement filed 12/6/05 have been lined through, as they are substantially identical to the references cited in the Information Disclosure Statement filed 12/7/05.

Drawings

8. The Applicants are reminded of the objections to the drawings in Section 3 of the Office Action dated 9/13/05. No response to these objections was received in the submissions filed 12/6/05 and 12/7/05. In addition, formal drawings including the approved drawing corrections are required in response to this Office Action.

REASONS FOR ALLOWANCE

9. The following is an examiner's statement of reasons for allowance:

Claims 20 and 55 are allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest an encoded particle and a method of reading an encoded particle, as generally set forth in Claims 20 and 55, the particle and method both including, in combination with

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the features recited in Claims 20 and 55, the refractive index variation comprising a plurality of refractive index pitches superimposed at the grating location.

Claims 23-54, 58-93 are dependent on Claims 20 and 55, and hence are allowable for at least the same reasons Claim 20 and 55 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arnel C. Lavarias
Patent Examiner
Group Art Unit 2872
12/9/05